



Docket No.: PF112P6  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Timothy A. Coleman

Allowed: July 15, 2005

Application No.: 09/921,143

Confirmation No.: 6449

Filed: August 3, 2001

Art Unit: 1636

For: Vascular Endothelial Growth Factor 2

Examiner: C. X. Qian

**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicants hereby request reconsideration of the patent term adjustment indicated on Form PTOL-85 received with the Notice of Allowance mailed on July 15, 2005. This application is being timely made, as it is being submitted concurrently with the issue fee payment. The requirements of 37 C.F.R. § 1.705(b)(1) are satisfied by the Fee Transmittal Sheet enclosed herewith, authorizing payment of the fee set forth in 37 C.F.R. 1.18(e). The requirements of 37 C.F.R. § 1.705(b)(2) are satisfied by the following Statement of Facts.

**STATEMENT OF FACTS**

1. The instant application was filed on August 3, 2001, and is thus eligible for patent term adjustment under 35 U.S.C. § 154.

2. Per Form PTOL-85 received with the Notice of Allowance mailed on July 15, 2005 and PAIR as of October 14, 2005 (**Exhibits A and B**, respectively), the Patent and Trademark Office has determined that Applicants are entitled to 282 days of patent term adjustment. However, as detailed further below, the proper patent term adjustment is 403 days.

3. In the instant application, the Patent and Trademark Office deemed the submission of an Information Disclosure Statement on August 10, 2004 as an Applicant delay of 83 days, even

though all the references cited on the Information Disclosure Statement were first cited to Applicants by a foreign patent office in a counterpart application less than 30 days before August 10, 2005. Accordingly, Applicants respectfully submit that no reduction of patent term adjustment should be made based on this filing.

4. In addition, the Patent and Trademark Office deemed the submission of a supplemental response on May 19, 2005 as an Applicant delay of 38 days, even though during a phone communication on May 19, 2005, the Examiner specifically requested that Applicants file the supplemental response rather than issuing a final office action. If Applicants had insisted that the Examiner prepare and mail a final office action, no delay would be assessed against Applicants and in fact, the delay by the Patent and Trademark Office may have been larger than it currently is. Accordingly, no reduction of patent term adjustment should be made based on this filing

5. As described above, Applicants respectfully submit that the instant application is entitled to an additional 121 days of term adjustment, for a total of 403 days.

6. Applicants further submit that the basis of the patent term adjustment under §1.702 is due to the failure of the Patent and Trademark Office to mail at least one notification under 35 U.S.C. 132 by 14 months after the instant application was filed. For example, the current application was filed on August 3, 2001 while the Patent and Trademark Office only mailed the first notice on December 2, 2003.

7. The instant application is not subject to a terminal disclaimer.

8. Besides the circumstances described above, Applicants submit that the only additional circumstance that could be construed as a failure to engage in reasonable efforts to conclude processing or examination of this application was caused by the submission an Information Disclosure Statement on November 24, 2004, which led to a 22 day delay.

### CONCLUSION

Applicants respectfully request that the patent term adjustment for the instant application be reconsidered in light of the facts and circumstances described above. In particular, Applicants maintain that the instant application is entitled to 403 days of patent term adjustment. In the event of a favorable decision based on this application, Applicants further request reimbursement of the fee which has been paid pursuant to § 1.18(e), since payment of such fee was necessitated by a mistake of the Patent and Trademark Office.

If any further information is required, please call the undersigned at the number listed below. Please charge any additional fees due in connection with the filing of this paper, or credit any overpayment, to Deposit Account No. 08-3425.

Dated: Oct 14, 2005

Respectfully submitted,

By 

Melissa J. Pytel

Registration No.: 41,512

HUMAN GENOME SCIENCES, INC.

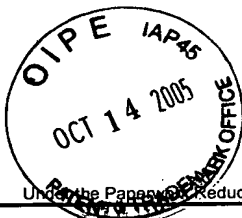
Intellectual Property Dept.

14200 Shady Grove Road

Rockville, Maryland 20850

(301) 610-5764

MMW/MJP/DBS/ba



<b>Effective on 12/08/2004.</b> <b>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</b>		<b>Complete if Known</b>	
<b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		Application Number	09/921,143-Conf. #6449
		Filing Date	August 3, 2001
		First Named Inventor	Timothy A. Coleman
		Examiner Name	C. X. Qian
		Art Unit	1636
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	PF112P6
<b>TOTAL AMOUNT OF PAYMENT</b>	<b>(\$)</b> 200.00		

<b>METHOD OF PAYMENT</b> (check all that apply)	
<input type="checkbox"/> Check	<input type="checkbox"/> Credit Card
<input type="checkbox"/> Money Order	<input type="checkbox"/> None
<input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account	Deposit Account Number: <u>08-3425</u> Deposit Account Name: <u>Human Genome Sciences, Inc.</u>
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, <b>except for the filing fee</b>
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17	<input checked="" type="checkbox"/> Credit any overpayments

<b>FEE CALCULATION</b>							
<b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>							
	<b>FILING FEES</b>		<b>SEARCH FEES</b>		<b>EXAMINATION FEES</b>		
		<b>Small Entity</b>		<b>Small Entity</b>		<b>Small Entity</b>	
<b>Application Type</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fees Paid (\$)</b>
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____
<b>2. EXCESS CLAIM FEES</b>							
						<b>Small Entity</b>	
						<b>Fee (\$)</b>	<b>Fee (\$)</b>
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						200	100
Multiple dependent claims						360	180
<b>Total Claims</b>		<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	<b>Multiple Dependent Claims</b>		
6		- 20 =	x	=	<b>Fee (\$)</b> <b>Fee Paid (\$)</b>		
<b>Indep. Claims</b>		<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>			
2		- 3 =	x	=			
<b>3. APPLICATION SIZE FEE</b>							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>			<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	
_____	- 100 =	/50 _____ (round up to a whole number) x			=	_____	
<b>4. OTHER FEE(S)</b>							
Non-English Specification, \$130 fee (no small entity discount)						<b>Fees Paid (\$)</b>	
Other (e.g., late filing surcharge): <u>1455 Filing an application for patent term adjustment</u>						200.00	

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	41,512
Name (Print/Type)	Melissa J. Pytel	Telephone	(301) 610-5764
		Date	10/14/05



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,143	08/03/2001	Timothy Coleman	PF112P6	6449
22195	7590	07/15/2005		
HUMAN GENOME SCIENCES INC INTELLECTUAL PROPERTY DEPT. 14200 SHADY GROVE ROAD ROCKVILLE, MD 20850				
			EXAMINER	
			QIAN, CELINE X	
			ART UNIT	PAPER NUMBER
			1636	

DATE MAILED: 07/15/2005

**Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)**  
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 282 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 282 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



Exhibit B

## Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/921,143			
			Days
Filing or 371(c) Date:	08-03-2001	USPTO Delay (PTO):	425
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	143
Post-Issue Petitions (days):	+0	Total PTA:	282
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
07-15-2005	Mail Notice of Allowance		
07-13-2005	Issue Revision Completed		
07-13-2005	Notice of Allowance Data Verification Completed		
07-13-2005	Case Docketed to Examiner in GAU		
05-27-2005	Date Forwarded to Examiner		
05-19-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		
05-19-2005	Supplemental Response	↑	38
04-27-2005	Date Forwarded to Examiner	↑	↑
04-11-2005	Reference capture on IDS	↑	↑
04-11-2005	Response after Non-Final Action	↑	↑
04-11-2005	Information Disclosure Statement (IDS) Filed	↑	
01-25-2005	Mail Non-Final Rejection	↑	
01-24-2005	Non-Final Rejection	↑	
11-24-2004	Information Disclosure Statement (IDS) Filed	↑	22
11-13-2004	Date Forwarded to Examiner	↑	↑
11-02-2004	Response after Non-Final Action	↑	↑
11-02-2004	Workflow incoming amendment IFW	↑	
08-11-2004	Mail Non-Final Rejection	↑	
08-10-2004	Information Disclosure Statement (IDS) Filed	↑	83
08-09-2004	Non-Final Rejection	↑	↑
05-26-2004	Date Forwarded to Examiner	↑	↑
05-19-2004	Response after Non-Final Action	↑	↑
05-19-2004	Workflow incoming amendment IFW	↑	
03-09-2004	Mail Non-Final Rejection	↑	
03-08-2004	Non-Final Rejection	↑	
01-22-2004	Date Forwarded to Examiner	↑	
01-08-2004	Reference capture on IDS	↑	
12-17-2003	Response to Election / Restriction Filed	↑	
12-02-2003	Mail Restriction Requirement	425	
11-28-2003	Requirement for Restriction / Election	↑	
10-07-2003	IFW TSS Processing by Tech Center Complete	↑	
		↑	

09-23-2003	Case Docketed to Examiner in GAU		
09-12-2003	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑	
08-05-2003	Application Dispatched from OIPE	↑	
08-05-2003	Application Is Now Complete	↑	
06-09-2003	Information Disclosure Statement (IDS) Filed	↑	
04-17-2003	Preliminary Amendment	↑	
09-12-2002	Information Disclosure Statement (IDS) Filed	↑	
08-16-2002	Information Disclosure Statement (IDS) Filed	↑	
04-18-2002	Information Disclosure Statement (IDS) Filed	↑	
03-12-2002	Information Disclosure Statement (IDS) Filed	↑	
02-04-2002	Information Disclosure Statement (IDS) Filed	↑	
11-20-2001	Additional Application Filing Fees	↑	
11-20-2001	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	
11-20-2001	Applicant has submitted new drawings to correct Corrected Papers problems	↑	
09-27-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
09-27-2001	Correspondence Address Change	↑	
09-18-2001	CRF Is Good Technically / Entered into Database	↑	
08-10-2001	IFW Scan & PACR Auto Security Review	↑	
08-03-2001	CRF Disk Has Been Received by Preexam / Group / PCT	↑	
08-03-2001	Initial Exam Team nn	↑	

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